

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SAM BEILUE,

Plaintiff,

vs.

Civ. No. 97-1309 MV/WWD

UNITED PARCEL SERVICE, INC., and
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL NO. 492,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff's "Motion for Order for Rule 37(B) Sanctions and for Order to Show Cause Why the Union Should Not Be Held in Contempt" [docket no. 51]. On August 12, 1998, a hearing was held in connection with the aforementioned motion. Counsel for the Teamsters mistakenly advised Plaintiff that a file existed at the Teamsters Union on Plaintiff; however, this was incorrect since Plaintiff was not a member of the union, and no file was opened on him. Under the circumstances, it would not be appropriate to sanction the Teamsters for failing to produce a nonexistent file. Plaintiff, who was proceeding *pro se*, is not entitled to attorney fees. See Turman v. Tuttle, 711 F.2d 148 (10th Cir.1983).

WHEREFORE,

IT IS ORDERED that Plaintiff's Motion for Order for Rule 37(B) Sanctions and for Order to Show Cause Why the Union Should Not be Held in Contempt [Docket #51] be, and it is hereby, **DENIED**.


UNITED STATES MAGISTRATE JUDGE